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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/540,648	03/31/2000	Paul G. Skuriat	20558-011	1725
30623	7590	05/04/2004	EXAMINER	
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C. ONE FINANCIAL CENTER BOSTON, MA 02111				SHIH, SALLY
		ART UNIT		PAPER NUMBER
		3624		

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/540,648	SKURIAT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sally Shih	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 March 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 and 10 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-8 and 10 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This communication is response to Applicant's amendment filed on November 17, 2003 and restriction election dated March 15, 2004. The rejections are as stated below:

#### ***Status of Claims***

2. Of the original claims 1-10, claim 1 has been amended. Furthermore, Applicant has elected Group I, claims 1-8 and 10 to be examined. Accordingly, claims 1-8 and 10 are under prosecution in this application.

#### ***Summary of this Office Action***

3. Applicant's arguments filed on November 17, 2003 with respect to claims 1-8 and 10 have been considered but are moot in view of the new ground of rejection.

#### ***Response to Applicant's Argument***

4. Applicant's arguments with respect to claims 1-8 and 10 have been considered but are moot in view of the new ground of rejection.

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skinner et al. (United States Patent Number 5,963,914).

Claims 1 and 10: Skinner et al. teach a system and corresponding method providing a measure of performance of participants to a trade management process comprising: management processing means for receiving a first communication from a first participant to said management process (abstract; fig. 2 and associated text; col. 3, lines 14-18); recording means for recording time information including at least one time value representative of a time when said first communication is received by said management processing means (abstract; fig. 2 and associated text; col. 3, lines 14-18); and performance processing means for generating a measure of performance with respect to said first participant as a function of said time information, the time information including at least one time value representative of a time when said first communication is management processing means (abstract; fig. 2 and associated text; col. 3, lines 14-18, 41-56).

However, Skinner et al. did not specifically indicate the system is only applicable in a particular industry. The Examiner takes Official Notice that tracking time in connection with the work performed is old and well known in the art. It would have been obvious to one of ordinary skill in the art to modify Skinner's teaching to be used in the trade industry.

Claim 2. Skinner et al. teach a system according to claim 1 wherein said management processing means receives a plurality of communications from a said first participant to said trade management process (col. 3, lines 29-56); said recording means records time information

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including at least one time value representative of a time when at least two of said plurality of communications is received by said management processing means (col. 3, lines 29-56); and said performance processing means generates a measure of performance with respect to said first participant as a function of said time information for said at least two of said plurality of communications received by said management processing means (figs. 12-13 and associated text; col. 3, lines 29-56).

However, Skinner et al. did not specifically indicate the system is only applicable in a particular industry. The Examiner takes Official Notice that tracking time in connection with the work performed is old and well known in the art. It would have been obvious to one of ordinary skill in the art to modify Skinner's teaching to be used in the trade industry.

Claim 3. Skinner et al. teach a system according to claim 1 wherein said trade management processing means receives a second communication from a second participant to a second trade management process (figs. 11-13 and associated text);

    said recording means records time information including at least one time value representative of a time when said second communication is received by said trade management processing means (figs. 11-13 and associated text); and

    said performance processing means generates a measure of performance of said second participant with respect to said first participant as a function of said time information (figs. 11-13 and associated text).

However, Skinner et al. did not specifically indicate the system is only applicable in a particular industry. The Examiner takes Official Notice that tracking time in connection with

the work performed is old and well known in the art. It would have been obvious to one of ordinary skill in the art to modify Skinner's teaching to be used in the trade industry.

Claim 4. Skinner et al. teach a system according to claim 1 wherein said trade management processing means receives a second communication from a second participant to said trade management process (figs. 11-13 and associated text);

said recording means records time information including at least one time value representative of a time when said second communication is received by said trade management processing means (figs. 11-13 and associated text); and

said performance processing means generates a measure of performance of said first participant and a measure of performance of said second participant as a function of said time information (figs. 11-13 and associated text).

However, Skinner et al. did not specifically indicate the system is only applicable in a particular industry. The Examiner takes Official Notice that tracking time in connection with the work performed is old and well known in the art. It would have been obvious to one of ordinary skill in the art to modify Skinner's teaching to be used in the trade industry.

Claim 5. Skinner et al. teach a system providing a measure of performance of participants to a trade management process, said trade management process including transmitting trade-related information between said participants, said system comprising:

a trade management system coupled to a network and adapted for receiving a first communication from a first participant to said trade management process (abstract; fig. 1 and associated text);

a communication recording system coupled to said trade management system and adapted for recording time information including at least one time value representative of a time when said first communication is received by said trade management system (abstract; fig. 1 and associated text); and

an information processing system coupled to said trade management system and adapted for generating a measure of performance with respect to said first participant as a function of said time information (abstract; fig. 1 and associated text).

However, Skinner et al. did not specifically indicate the system is only applicable in a particular industry. The Examiner takes Official Notice that tracking time in connection with the work performed is old and well known in the art. It would have been obvious to one of ordinary skill in the art to modify Skinner's teaching to be used in the trade industry.

Claim 6. Skinner et al. teach a system according to claim 5 wherein said trade management system is adapted to receive a plurality of communications from a said first participant to said trade management process;

said communication recording system is adapted for recording time information including at least one time value representative of a time when at least two of said plurality of communications is received by said trade management system (figs. 1, 11-13 and associated text); and

said information processing system is adapted for generating a measure of performance with respect to said first participant as a function of said time information for said at least two of said plurality of communications received by said trade management system (figs. 1, 11-13 and associated text).

However, Skinner et al. did not specifically indicate the system is only applicable in a particular industry. The Examiner takes Official Notice that tracking time in connection with the work performed is old and well known in the art. It would have been obvious to one of ordinary skill in the art to modify Skinner's teaching to be used in the trade industry.

Claim 7. Skinner et al. teach a system according to claim 5 wherein said trade management system is adapted to receive a second communication from a second participant to a second trade management process (figs. 1, 11-13 and associated text);

said information recording system is adapted for recording time information including, at least one time value representative of a time when said second communication is received by said trade management system (figs. 1, 11-13 and associated text); and

said information processing system is adapted for generating a measure of performance of said second participant with respect to said first participant as a function of said time information (figs. 1, 11-13 and associated text).

Claim 8. Skinner et al. teach a system according to claim 5 wherein said trade management system is adapted to receive a second communication from a second participant to said trade management process (figs. 1, 11-13 and associated text);

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said information recording system is adapted for recording time information including at least one time value representative of a time when said second communication is received by said trade management system (figs. 1, 11-13 and associated text); and

said information processing system is adapted for generating a measure of performance of said first participant and a measure of performance of said second participant as a function of said time information (figs. 1, 11-13 and associated text).

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sally Shih whose telephone number is 703-305-8550. The examiner can normally be reached on Flexible Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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